

ORIGINAL



MAHER TERMINALS, INC.

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Container & Conventional Marine Terminals

53823

April 10, 1999

Docket Clerk,
U.S. DOT Dockets,
Room PL-401
400 Seventh Street, SW
Washington, DC 20590-0001

RE: Proposed Rules, Department of Transportation
Federal Highway Administration
49 CFR Part 390 and 396
FHWA Docket No. FHWA-98-3656 - 23
RIN 2125-AE40

DEPT. OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, DC 20590
APR 15 PM 3:01

The following comments are submitted in response to the Advance Notice of Proposed Rulemaking as referenced above.

Maher Terminals is a privately held Marine Terminal Operator doing business in the Port of New York and New Jersey. As a point of reference, one million (1,000,000) intermodal truck transactions are handled in our facilities on an annualized basis. The company employs over 800 permanent workers with approximately 200 of those employees engaged in activities related to the repair or inspection of intermodal containers and chassis. Over the course of time **Maher Terminals** has worked very closely with the local trucking community to develop the systems which are in place today to deal with the inspections of intermodal equipment and with roadability repairs. In fact, **Maher Terminals**, working hand-in-hand with the truckers, has pioneered many new and innovative programs which have improved the receiving and delivery processes at its facilities. These programs include the **Maher Co-Op Chassis Pool**, the first off-terminal Empty Depot in the Port of New York, new rules on Truck Detention, and most recently, the Automated Receiving and Delivery (ARD) system. Much care has gone into our systems and procedures to ensure that no intermodal equipment leaves our facilities in unroadworthy condition.

In response to the proposed rulemaking which would effect parts of 390 and 396 of the Federal Motor Carrier Safety Regulations, **Maher Terminals** is opposed to any change which would place a responsibility to maintain intermodal equipment upon the 'provider', which in our case can be defined as the terminal operator.

Our opposition is based upon the following arguments:

1. The proposed rulemaking contains fourteen (14) specific questions. Each of the questions has multiple parts. In fact, there are at least thirty-two (32) different questions contained within the proposed rulemaking. If the FHWA does not have the data to answer these questions, then it does not have knowledge of the problems, if with the current regulations. Notwithstanding that the FHWA does not have the data upon which to make scientific or objective determinations, this agency concludes in an opening statement that "*it may be prudent to establish **joint** responsibility between the **'equipment provider' and motor carrier for the maintenance of these intermodal container, chassis and trailers...***"

No problem has been documented therefore no change can be warranted or justified.

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2. **Maher** Terminals, a marine terminal operator, has absolutely no control over a motor carrier once the motor carrier leaves its facility. The marine terminal operator has no control of how fast or slow the truck operates, how the brakes are applied, what the truck drives over, under, or around or any other part of the motor carriers operations. To ask in this petition for "*joint* responsibility" for the condition of the intermodal equipment once it has left the terminal is illogical. To ask in this petition how long after a motor carrier took possession of equipment, was it stopped at a roadside inspection and found to have a defect, is totally irrelevant.
3. **Maher** Terminals has systems and procedures in place at its facilities which ensure that unroadworthy equipment is not permitted to exit. In addition, if the outbound inspection reveals a damage or deficiency which cannot be easily repaired, or if that repair will substantially delay the motor carrier, the terminal operator will "switch" the damaged equipment out and replace it with good order equipment. The motor carrier is accorded an inspection, a report of deficiencies if any, and a system to have any deficiency repaired before exiting the facility.

The changes contemplated in the proposed rulemaking are unwarranted, thus unnecessary.

Very truly yours,

MAHER TERMINALS, INC.



Joseph Curto
Senior Vice President
Operations

JC:da

cc: M. B. **Maher**
B. **Maher**
C. Carroll/Wilcox, Carroll & Froelich
C. Lambos/Lambos & Junge